THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.24330 of 2006

ORDER :

Heard the learned counsel.

The writ petition is filed praying for a Writ, Order, or direction, more in the nature of the writ of Certiorari calling for the records relating to the impugned rejection order vide Proceedings No.52/CC/74/2005-FF(HC)(C), dated 03-11-2006 issued by the respondent No.1 and quash the same by declaring that the petitioner is entitled for grant of freedom fighters pension with all consequential arrears with effect from the date of recommendation of his case by the Screening Committee and the impugned action of the first respondent is illegal, arbitrary and discrimination being violation of Articles 14 and 21 of the Constitution of India and pass such other orders.

It is stated that the petitioner's application, dated 27-12-1985, had been initially rejected by the first respondent in letter No.112/2394/93-FF(HC), dated 23-04-1993, on the ground that petitioner had not submitted the application before the last date i.e., 27-12-1985. In view of the Supreme Court judgment in Mukundlal Bhandari Case, petitioner's application had been placed before the Hyderabad Special Screening Committee on 19-12-1997, at serial No.1123 of the Committee Agenda with File No.112/2394/93 and the committee was pleased to recommend petitioner's case for grant of freedom fighters pension. Then the petitioner attended for enquiry and submitted all required documentary evidence and based on the enquiry report, the third respondent had recommended petitioner's case for grant of freedom

fighters pension vide letter Rc.No.C6/2117/11/1122/97, dated 19-02-2003 and the same had been forwarded to the first respondent by the second respondent. But, the first respondent had not considered his case for grant of freedom fighters pension. Upon enquiry, petitioner came to know that his case was returned to the second respondent by the first respondent, as if his case had not been recommended by the Screening Committee in Lr.No.112/2/2003-FF(HC)(C) Misc.(A), dated 26-09-2003. At that juncture, petitioner came to know that his file number had been wrongly typed as 112/1122/97 instead of 112/2394/93 in documents, which were submitted by the petitioner before the enquiry officer. Therefore, to rectify the mistake, petitioner submitted a representation to the third respondent on 04-02-2005 and requested to correct his file number as 112/2394/93 with Agenda No.1123. The third respondent had considered his representation and afresh proposal had been submitted to the first respondent through the second respondent in Proc.Rc.No.C6/400/04, dated 20-02-2005. But the first respondent had not considered the third respondent's letter dated 20-02-2005, to sanction the freedom fighters pension. Aggrieved by the same, petitioner filed W.P.No.13491 of 2005, which had been disposed of on 07-11-2005, directing the first and second respondents to consider the proposal of the third respondent and pass appropriate order on the representation of the petitioner within two months from the date of receipt of the order. But the respondents one and two had failed to consider petitioner's case. Therefore, petitioner filed Contempt Case No.321/2006 and the same had been disposed of on 07-06-2006. Thereafter, the first respondent had

passed the impugned Proceedings No.52/CC/74/2005-FF(HC)(C), dated 03-11-2006, rejecting petitioner's case for grant of freedom fighters pension, though his case had been recommended by the Hyderabad Special Screening Committee and the respondents two and three for grant of freedom fighters pension after detailed enquiry, which is illegal, arbitrary and discrimination being violation of Articles 14 and 21 of the Constitution of India.

Further it is stated that the first respondent had forwarded all cases to the second respondent, which had been recommended by the Screening Committee for submission of verification and entitlement report. The first respondent had considered and sanctioned the freedom fighters pension in all cases, where the second and third respondents had conducted detailed enquiry and submitted enquiry report recommending for grant of freedom fighters pension. It is stated that it is pertinent to submit that only in petitioner's case a frivolous order had been passed on technical objections, rejecting his case for grant of pension. The first respondent had failed to exercise his jurisdiction for grant of pension to him on par with the similarly situated persons and therefore, the impugned order of the first respondent is liable to be quashed by holding the same as illegal, arbitrary and discrimination being violation of Articles 14 and 21 of the Constitution of India. It is further submitted that in the impugned rejection order the first respondent had taken a technical ground saying that there was no valid recommendation slip of the Hyderabad Special Screening Committee and the consideration itself does not ipso facto imply recommendation. In this connection, petitioner respectfully submit that the procedure for placing

application before the Hyderabad Special Screening Committee is that, initially, the first respondent would verify the application and then the file number would be given and the said application would be included in the list of cases, which is called as Agenda, and would be placed before the Hyderabad Special Screening Committee, for which the first respondent would be the Convener. Every application would be attached with a covering slip, which would be filled up by the respondents and placed before the screening committee. Thereupon, the members of the Committee would consider the application and they may recommend or reject for grant of pension. In petitioner's case, his application had been placed before the Screening Committee, after duly verifying his application and issuing File No.112/1148/97 and then only the committee members had considered his application and recommended for grant of F.F. Pension. It is the duty of the respondent No.1 to fill up the Committee recommended slip, which is now said to be attached to his application and signed by the Committee Members. Therefore, petitioner cannot be penalized for the respondents' mistake and the respondents have no jurisdiction to reject his application on technical ground for grant of F.F. Pension. Therefore, the impugned order has been vitiated in the eye of law and hence liable to be set aside.

It is also averred that the second ground taken by the respondent in the impugned rejection order was that the signature of the committee Members had been undated. In this connection, petitioner submits that no recommendation slip had been signed by the committee members with date. The agenda/list of the applications

placed before the committee as on that date would be treated that as a date on which the committee members had considered and recommended and therefore such type of technical objection was untenable in the eye of law as held by the Hon'ble Supreme Court. It is further stated that the Hon'ble Supreme Court held that the applications cannot be rejected on technical grounds and should be considered fairly on merits and come to a conclusion that there is a prima facie evidence to show that he is a genuine freedom fighter. Therefore, taking such technical objections of their own mistakes, particularly at that juncture and rejecting his case for grant of freedom fighters pension is illegal, arbitrary and discrimination being violation of Articles 14 and 16 of the Constitution of India. In such circumstances, the petitioner approached this Court by filing the present writ petition.

In the similar case in W.P.No.1204 of 2006 counter-affidavit has been filed, but no counter-affidavit is filed in the instant writ petition.

Certain other documents are shown. In the light of the respective stands taken by the parties, this Court is of the considered opinion that the rejection, in the facts and circumstances, cannot be sustained. Hence, the rejection is hereby set aside. Since in the light of the material placed before the Court, the issue may have to be reconsidered and accordingly the Writ Petition is disposed of directing the respondents to reconsider the whole issue in the light of the material placed before the Court, in the facts and circumstances, within a period of six weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No order as to costs.

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Justice

P.S.Narayana

Dated 02nd November, 2007

skmr

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No. 24330 of 2006

Dated: 02nd November, 2007

BETWEEN:

Vemuri Narayana

.. Petitioner

And

The Under Secretary, Freedom

Fighters Division, Ministry of
Home Affairs, Loknayak Bhavan,
New Delhi and others

.. Respondents